IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 14836 of 2004

Between:

J.Krishna S/o. Venkataiah, Lorry Woner, R/o. Hyderabad.

... PETITIONER

AND

1 The Secretary Regional Transport Authority
Hyderabad East Zone Moosarambagh, Hyderabad.
2 The Assistant Secretary Regional Transport Authority
Hyderabad East Zone Moosarambagh, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction and more particularly one in the nature of writ of mandamus declaring the 2nd respondent's notice SCN No.6641/A2/03 dated 18.11.2003 demanding the petitioner to pay a sum of Rs.43,000/- towards compounding fee for the alleged over loading of vehicle No.AP-11T-4814 as illegal, arbitrary, against the Principles of Natural Justice, Violative of Articles 14,19 and 31 of the Constitution of India

Counsel for the Petitioner: MR.BATHINI PAPA RAO GOUD

Counsel for the Respondents: GP FOR TRANSPORT

The Court made the following order:

ORDER:

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Learned counsel for the petitioner submits that only on the information received by the respondents about overloading, the compounding fee was sought to be imposed without giving any reasonable opportunity to the petitioner.

In a similar batch of cases a Division Bench of this Court in WP.No.23445 of 2003 and batch made the following order:

> "Since the point for consideration is all these writ petitions is similar, they are being disposed of by this common order.
>
> In all these writ petitions, the controversy is that the respondent department is seeking to collect compounding fee on the ground of violation of permitted conditions while transporting goods in the vehicles in question. Issue Rule Nisi.
>
> During the course of hearing of the writ petitions, what is noticed by us is that if the respondents have collected information about the overloading in the transit, the respondents shall put to the petitioners the incriminating evidence they have collected and seek explanation from the petitioners and thereafter, on the basis of the explanation they are entitled to proceed further in accordance with law, if petitioners have violated any condition. Till such procedure is adopted, the respondents cannot proceed against the petitioners

seeking to collect compounding fee, as if the commission of offence is established against the petitioners.

In that view of the matter, we set aside the impugned orders in all these writ petitions and permit the respondents to follow the procedure as indicated by us and determine the liability, if any, according to provisions of the Motor Vehicles Act, after giving due opportunity to the petitioners.

Accordingly, the writ petitions are disposed of. No costs."

Following the said judgment this writ petition is disposed of in terms thereof. No costs.

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V. ESWARAIAH, J

March 23, 2005

Dsk

To

1 The Secretary Regional Transport Authority, Hyderabad, East Zone

Moosarambagh, Hyderbad.

2 The Assistant Secretary Regional Transport Authority, Hyderabad, East Zone

Moosarambagh, Hyderabad.

3 Two CCs to GP For Transport, High Court Buildings, Hyderabad (OUT)

4 Two CD Copies.